

Consideration of preliminary adoption of rules to provide expedited procedures under IC 14-21-1-26 for a person to obtain a cemetery restoration license from the Department's Division of Historic Preservation and Archaeology; Administrative Cause No. 08-096H

Preliminary adoption by the Natural Resources Commission is recommended, as set forth below, for rules to provide a license for an expedited process to perform a qualified cemetery restoration project. More particularly, the rules define terms, list information that must be included in a license application, require the Division to establish minimum training standards for a coordinator of a project for cemetery restoration, provide a license expires after one year and may be renewed once, and require a project coordinator to submit a report to the division within 60 days after the completion of the project or the expiration of the license. The substance of the proposed rules is currently governed by a temporary (emergency) rule which is scheduled to expire on January 1, 2011 as LSA Document #09-773(E).

312 IAC NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #09-

Amends 312 IAC 22.5-1-2 which defines "cemetery" for certain historic preservation purposes. Adds 312 IAC 22.5-3 to govern licenses for activities in cemeteries to probe for fallen grave memorials, to recover grave memorials, and to restore them.

312 IAC 22-5

SECTION 1. 312 IAC 22-5 IS ADDED TO READ AS FOLLOWS:

Rule 5. Expedited license for a qualified cemetery restoration project

312 IAC 22-5-1 Application

Authority: IC 14-10-2-4; IC 14-21-1-31

Affected: IC 14-21-1

- Sec. 1. (a) This rule provides an expedited licensure process for cemetery restoration.
- (b) A person who qualifies for and complies with this rule is not required to obtain approval of a plan under 312 IAC 21-3-3 or a permit under 312 IAC 22-2-3.
- (c) A license is not available under this rule for either of the following:
- (1) A cemetery which is part of a historic site or historic structure owned by the state.
- (2) A project which includes activities other than cemetery restoration. (*Natural Resources Commission; 312 IAC 22-5-1*)

312 IAC 22-5-2 Additional definitions

Authority: IC 14-10-2-4; IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

- Sec. 2. (a) The definitions in this section are in addition to those in IC 14 and 312 IAC 1 and apply throughout this rule.
- (b) "Cemetery restoration" refers to the following:
- (1) probing the ground of a cemetery; and
- (2) recovering, restoring, and resetting a fallen grave memorial.
- (c) "Probing" means inserting an object into the ground, to a depth not greater than six (6) inches, for the purpose of locating a fallen grave memorial in a cemetery.
- (d) "Grave memorial" refers to a gravestone, monument, grave marker, or any other type of similar item that is located in a cemetery and used to mark the burial of human remains. (*Natural Resources Commission; 312 IAC 22-5-2*)

312 IAC 22-5-3 Application for cemetery restoration license

Authority: IC 14-10-2-4; IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

- Sec. 3. (a) A person who wishes a cemetery restoration license must submit a written application to the division.
- (b) The applicant must provide the division with the following:

(1) The location of the cemetery. An applicant must not include more than one (1) cemetery in a license application.

(2) A document from the cemetery owner showing permission to provide cemetery restoration.

(3) If land owned by a person other than the owner of the cemetery would be crossed to access the cemetery, a document showing permission to perform the crossing.

(4) Who would be the coordinator of the cemetery restoration.

(5) Any other information reasonably required by the division form referenced in subsection (a). (*Natural Resources Commission; 312 IAC 22-5-3*)

312 IAC 22-5-4 Identification of a permanent visible boundary for a cemetery

Authority: IC 14-10-2-4; IC 14-21-1-31

Affected: IC 14-9; IC 14-21-1

Sec. 4. For a cemetery which is not marked by a permanent visible boundary, the division may require an applicant to identify the boundary as a condition for approval of a cemetery restoration. The applicant may use land records, surveys, historical records, and any other relevant sources to help identify the boundary. (*Natural Resources Commission; 312 IAC 22-5-4*)

312 IAC 22-5-5 Qualification as coordinator

Authority: IC 14-10-2-4; IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 5. (a) The division shall establish minimum training standards that a coordinator of a project for cemetery restoration must meet. Those standards shall include successful completion of training in the appropriate techniques for each of the following:

(1) Probing in a cemetery to locate a fallen grave memorial.

(2) Recovering a fallen grave memorial.

(3) Restoring a fallen grave memorial.

(4) Resetting a grave memorial in the cemetery.

(b) "The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes" (U.S. Department of the Interior, National Park Service, 1996) is the professional guide for training a coordinator.

(c) A person who does not satisfy the minimum standards set forth in this section cannot serve as a coordinator under this rule. (*Natural Resources Commission; 312 IAC 22-5-5*)

312 IAC 22-5-6 Approval of cemetery restoration license

Authority: IC 14-10-2-4; IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 6. (a) The division may issue a written license to a coordinator for a project for cemetery restoration which satisfies this rule. The license shall require compliance with this rule and may include special conditions if otherwise needed for compliance with IC 14-21-1.

(b) Except as provided in this subsection, a license issued under subsection (a) expires one (1) year after issuance. The division may, on one (1) occasion, renew a license under subsection (a) for a period not longer than one (1) year. (*Natural Resources Commission; 312 IAC 22-5-6*)

312 IAC 22-5-7 Reports after project completion

Authority: IC 14-10-2-4; IC 14-21-1-25; IC 14-21-1-31

Affected: IC 14-21-1

Sec. 7. (a) The coordinator must submit a report to the division within sixty (60) days of the earlier of the following events:

(1) Completion of the project for cemetery restoration; or
(2) The expiration of a license, including any period of license renewal, under section 6(b) of this rule.

(b) The report must include each of the following:

- (1) A summary of the work conducted.**
- (2) Documentation for grave memorials which were recovered or restored.**
- (3) A map showing the location of any work.**
- (4) Other information if required by a license issued under section 6 of this rule.**

(c) The division shall review the report and inform the coordinator whether the work described meets the standards of the division and whether the report is complete and acceptable.

(d) The division may issue a license to the coordinator for another project or projects for a cemetery restoration, if the division informs the coordinator that the work described in a project report:

- (1) meets the standards of the division; and**
- (2) is complete and acceptable.**

(e) Except as provided in subsection (f), the division shall not issue another license to a coordinator under this rule if a coordinator does not submit a report as required by any of the following:

- (1) subsection (a);**
- (2) SECTION 7(a) of LSA Document #08-899(E) during the period of its effectiveness; or**
- (3) SECTION 7(a) of LSA Document #09-773(E) during the period of its effectiveness.**

(f) The division may issue another license for a cemetery restoration, if a report is submitted after the periods described in subsection (e), and the division determines the delinquent submission of the report did not cause significant harm. (*Natural Resources Commission; 312 IAC 22-5-7*)

TITLE 312 NATURAL RESOURCES COMMISSION

Emergency Rule
LSA Document #09-773(E)

DIGEST

Temporarily adds provisions concerning probing in a cemetery to locate a fallen grave memorial, recovering a fallen grave memorial, restoring a fallen grave memorial, and resetting a grave memorial in a cemetery. Similar provisions formerly had application in LSA Document #08-899(E). Effective January 1, 2010.

SECTION 1. (a) This document provides an expedited licensure process for a cemetery restoration.

(b) A person who qualifies for and complies with this document is not required to obtain approval of a plan under 312 IAC 21-3-3 or permit under 312 IAC 22-2-3.

(c) A license is not available under this document for either of the following:

- (1) A cemetery which is part of a historic site or historic structure owned by the state.**
- (2) A project which includes activities other than cemetery restoration.**

SECTION 2. (a) The definitions in this SECTION are in addition to those in IC 14, 312 IAC 1, and 312 IAC 22-1 and apply throughout this document.

(b) "Cemetery restoration" refers to the following:

- (1) probing the ground of a cemetery; and**
- (2) recovering, restoring, and resetting a fallen grave memorial.**

(c) "Probing" means inserting an object into the ground, to a depth not greater than six (6) inches, for the purpose of locating a fallen grave memorial in a cemetery.

(d) "Grave memorial" refers to a gravestone, monument, grave marker, or any other type of similar item that is located in a cemetery and used to mark the burial of human remains.

SECTION 3. (a) A person who wishes to obtain a cemetery restoration license must submit a written application to the division.

(b) The applicant must provide the division with the following:

- (1) The location of the cemetery. An applicant must not include more than one (1) cemetery in a license application.**
- (2) A document from the cemetery owner showing permission to provide cemetery restoration.**
- (3) If land owned by a person other than the owner of the cemetery would be crossed to access the cemetery, a document showing permission to perform the crossing.**
- (4) Who would be the coordinator of the cemetery restoration.**
- (5) Any other information reasonably required by the division.**

SECTION 4. For a cemetery which is not marked by a permanent visible boundary, the division may require an applicant to identify the boundary as a condition for approval of a cemetery restoration license. The applicant may use land records, surveys, historical records, and any other relevant sources to help identify the boundary.

SECTION 5. (a) The division shall establish minimum training standards that a coordinator of a project for cemetery restoration must meet. Those standards shall include successful completion of training in the appropriate techniques for each of the following:

- (1) Probing in a cemetery to locate a fallen grave memorial.**
- (2) Recovering a fallen grave memorial.**
- (3) Restoring a fallen grave memorial.**
- (4) Resetting a grave memorial in the cemetery.**

(b) "The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes" (U.S. Department of the Interior, National Park Service, 1996) is the professional guide for training a coordinator.

(c) A person who does not satisfy the minimum standards set forth in this SECTION cannot serve as a coordinator under this document.

SECTION 6. (a) The division may issue a written license to a coordinator for a project for cemetery restoration which satisfies this document. The license shall require compliance with this document and may include special conditions if needed for compliance with IC 14-21-1.

(b) Except as provided in this subsection, a license issued under subsection (a) expires one (1) year after issuance. The division may, on one (1) occasion, renew a license under subsection (a) for a period not longer than one (1) year.

SECTION 7. (a) The coordinator must submit a report to the division within sixty (60) days of the earlier of the following events:

- (1) the completion of the project for cemetery restoration; or
- (2) the expiration of a license, including any period of license renewal, under SECTION 6(b) of this document.

(b) The report must include each of the following:

- (1) A summary of the work conducted.
- (2) Documentation for grave memorials which were recovered or restored.
- (3) A map showing the location of any work.
- (4) Other information if required by a license issued under SECTION 6 of this document.

(c) The division shall review the report and inform the coordinator whether the work described meets the standards of the division and whether the report is complete and acceptable.

(d) The division may issue a license to the coordinator for another project or projects for a cemetery restoration, if the division informs the coordinator that the work described in a project report:

- (1) meets the standards of the division; and
- (2) is complete and acceptable.

(e) Except as provided in this subsection, if a coordinator does not submit a report as required by subsection (a), the division shall not issue another license to a coordinator under this document. The division may issue another license for a cemetery restoration, if a report is submitted after the periods described in subsection (a), and the division determines the delinquent submission of the report did not cause significant harm.

LSA Document #09-773(E)

Filed with Publisher: September 18, 2009, 10:33 a.m.

Posted: 10/07/2009 by Legislative Services Agency

An [html](#) version of this document.